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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Recommendations of the Forum on Minority Issues at its seventh session: Preventing and addressing violence and atrocity crimes targeted against minorities (25 and 26 November 2014)

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I. Introduction

1. In accordance with Human Rights Council resolution 19/23, the present document contains the recommendations of the Forum on Minority Issues. The seventh session was held on 25 and 26 November 2014 and considered the theme of "Preventing and addressing violence and atrocity crimes targeted against minorities". The work of the Forum was guided by the Special Rapporteur on minority issues, Rita Izsák. The Chair of the session was Patrick Thornberry of the United Kingdom of Great Britain and Northern Ireland. Some 570 participants attended, including representatives of Member States and numerous representatives of minority communities, non-governmental organizations, United Nations specialized agencies, regional and intergovernmental bodies and national human rights institutions.

2. The recommendations contained in the present document are based primarily on the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. The Declaration sets out the fundamental international human rights standards pertaining to the promotion and protection of minorities and recognizes that minority rights protection contributes to political and social stability and the strengthening of friendship and cooperation among peoples and States. The recommendations are also based on other existing international and regional human rights standards, principles and guidelines relevant to the promotion and protection of minority rights, including the Convention on the Prevention and Punishment of the Crime of Genocide. The jurisprudence and general comments of different United Nations treaty bodies and relevant reports and recommendations from special procedures mandate holders, including the work of the Special Rapporteur on minority issues, also informed the recommendations.

3. The recommendations take into account the principle of responsibility to protect and the three pillars of that principle, notably: the State carries the primary responsibility for protecting its populations from genocide, war crimes, ethnic cleansing and crimes against humanity and from incitement to those crimes; the international community has the responsibility to encourage and assist States in fulfilling that responsibility; and the international community has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help to protect populations from atrocity crimes, as stipulated in the 2005 World Summit Outcome (General Assembly resolution 60/1).

4. The range of issues covered by the recommendations is not exhaustive. They are action-oriented for use by a wide range of stakeholders to improve prevention and better respond to violence targeted against minorities. It is hoped that the recommendations will be interpreted in a constructive manner, in the light of binding human rights obligations, and in a spirit of cooperation and open dialogue, and that they will be used to make appropriate and informed choices when addressing and responding to violent situations affecting minorities.

5. The recommendations are phrased in broad terms and seek to be implemented in countries with diverse political, religious, historical and cultural backgrounds, with full respect for universal human rights standards. A great variety of country and minority situations exist and consequently, different measures may be required to prevent and address violence and atrocity crimes targeted against minority groups within a given State. Implementation of recommendations should be monitored and reviewed on a regular basis to ensure that they achieve the required objectives. The Forum has consistently emphasized that homogeneous solutions to different challenges are generally neither possible nor desirable, and that the recommendations should therefore be used with that in mind. The duty of States to protect their populations from violence and atrocity crimes, irrespective of national, ethnic, religious, linguistic or other identity, transcends any specific State ideology.

religion or value system, and is entrenched in universally accepted human rights instruments.

II. General considerations

6. The recommendations made in the present document should be read in conjunction with the substantive and action-oriented recommendations formulated at the six previous sessions of the Forum on Minority Issues, as they also apply to situations in which targeted violence against minorities is to be prevented and addressed.

7. In their efforts to prevent and address violence and atrocity crimes against minorities, all stakeholders are strongly encouraged to build their initiatives upon the four key pillars of minority rights protection: protection of existence; protection and promotion of minority identity; equality and non-discrimination; and the right to effective participation in all areas of civil, political, public, economic, social and cultural life.

8. It is important to recall that, in any measures aimed at implementing the recommendations, systematic consideration should be given to the specific conditions, situations and needs of women belonging to minorities, resulting from multiple and intersecting forms of discrimination.

9. All measures taken with a view to implementing the recommendations should be, to the fullest extent possible, developed, designed, implemented, monitored and evaluated in consultation with, and with the effective participation of, minorities including minority women.

10. Recognition of minority status is not solely for the State to decide. In accordance with the authoritative interpretation by the Human Rights Committee of the United Nations, the existence of minorities should be established by objective criteria. All efforts should be made to ensure that the principle of self-identification is respected.

III. Recommendations

A. Recommendations to prevent violence and atrocity crimes

1. Recommendations to States

11. As an essential violence prevention measure, States should comply with international standards of minority rights protection, equality and non-discrimination, and implement the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other relevant regional and international standards in full.

12. Gross and persistent inequalities may create the conditions under which minority communities are made vulnerable to violence. It is necessary to understand and address the dynamics and the impact of discrimination, exclusion and inequalities, including intersecting forms of discrimination, in order to reduce the exposure of poor and marginalized minorities to persecution, insecurity and, ultimately, violence. States should encourage effective participation and promote equality and the constructive integration of persons belonging to minorities in the political, social, economic and cultural life of society. Special measures should be taken for the benefit of the most disadvantaged communities.

13. States should consider appropriate measures to ensure that persons belonging to minorities participate fully in the economic progress and development of their country, including by ensuring clear and fair provisions on land, equal access to public sector

employment, credit, technology, vocational and skills training, across the different ethnic, linguistic and religious communities.

14. States must adopt the necessary national legislation prohibiting and punishing discrimination on the ground of nationality, ethnicity, religion and language. National constitutions and legislation should operate in a democratic political framework based on the rule of law, with a functioning independent judiciary, and should guarantee full recognition of minority rights and minorities' participation in all aspects of the State and its institutions.

15. States should ensure that attention is paid to minority issues in the design, planning, implementation, monitoring and evaluation of development policies and programmes, including in the context of the post-2015 development agenda, as a means to strengthen good governance and the rule of law and reduce inequalities.

16. Legislation should be introduced prohibiting advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and ensuring appropriate penalties, in line with international standards, including in relation to freedom of expression and hate speech. States should take resolute action against incitement to violence, counter hate speech with positive messages and encourage the use of positive language by political, religious and other community leaders. States should take measures to monitor hate speech and incitement to violence, including in the media and social media, and respond appropriately, including by prosecuting perpetrators.

17. States should pay particular attention to and urgently address the situation of persons belonging to minority groups who may face the most severe and entrenched forms of discrimination and exclusion. Such discrimination and exclusion may include stigmatization and dehumanization on the basis of their work and descent or caste, notions of pollution and other forms of stigmatization resulting in wide-ranging exploitation, abuse and exposure to violence.

18. States should avoid the creation or persistence of statelessness, denial or deprivation of citizenship and long-standing situations of undocumented or uncertain migration status for persons belonging to minorities. Such situations leave minority communities vulnerable to violence and other rights violations, with only weak protection by State authorities who may not recognize them as citizens or nationals whose rights must be protected. Citizenship application processes must be fair, transparent and non-discriminatory towards all minorities.

19. States should take concrete action to ensure good and inclusive governance and the participation of minorities at all levels of politics and in decision-making bodies as an essential means of ensuring that the issues and concerns of minorities, including the threat of violence, are recognized as early as possible and are appropriately addressed by government and public bodies. The electoral system of States should ensure fair representation of all minority groups, especially smaller underrepresented ones.

20. Education has a key role to play in preventing violence and promoting understanding among communities. Culturally appropriate curricula, education methodologies and teaching materials that relate to the principles of human rights, minority rights, equality and non-discrimination and the positive contributions of minorities to societies should be integrated in formal and non-formal education, with a view to promoting understanding and tolerance between different groups in society. The teaching of languages, culture, religion and history of different groups should be encouraged throughout the education system, including in minority or multilingual educational institutions.

21. Particularly where historic tensions have existed, or violence has previously taken place, States should consider specific programmes and initiatives intended to prevent

violence and intercommunal tensions. They may include measures and mechanisms to ensure that minority groups are able to express themselves and their concerns, engage in national debate and dialogue, and identify solutions to the issues that their communities confront, based on the principles of inclusion, consultation and participation of minorities.

22. States should identify and implement early warning indicators to assess the existence of factors that potentially lead to violence and allow authorities to take immediate and appropriate action to prevent violence. Indicators should include those relevant to minorities and be assessed in consultation with minority communities.

23. States should consider establishing dedicated institutions or dedicated units or departments within existing institutions, including in ministries in charge of minority rights protection and promotion, and include staff members from minorities and with expertise on minority issues. Such institutions or departments can take the lead in designing and implementing policy, mainstreaming attention to minority issues, monitoring the situation of minorities, establishing complaints mechanisms, setting up instruments of dialogue to promote consultation, conducting research and investigating human rights abuses, threats and minority rights violations. They should have a clear mandate, authority and adequate budgetary allocation to operate efficiently. In situations in which tensions exist or violence has previously occurred, minority issues should be taken up at the highest government levels to ensure that there are adequate institutional and policy frameworks and attention to minority issues to prevent and address violence.

24. States should collect data disaggregated by, inter alia, gender, age, ethnicity, caste, religion, mother tongue and geographical location, including in national census processes. Such data, analysed in combination with socioeconomic indicators, provide a better understanding of the size and status of minorities and a factual basis for developing a common understanding of the causes of inequalities and exposure to violence, as well as targeted objectives in the context of inclusive initiatives intended to prevent violence. Such data should be based primarily on self-identification, and civil society and minority groups should be involved throughout the process from design to collection and analysis, in order to improve accuracy and consistency of data collection and evaluation processes.

25. Data collection procedures must comply fully with international standards of personal data protection and use, in order to avoid data being misused to target a specific minority. Minorities should be consulted fully regarding the collection and use of data as a confidence-building measure, particularly where violence has occurred previously. As a practical measure, persons from minorities should be trained in data collection methodologies and engaged in processes of data analysis.

26. As an essential element to preventing violence against minorities, States should adopt holistic, inclusive and proactive security and policing strategies and incorporate positive practices into wider law enforcement and protection strategies. Open-ended consultation with minority communities and their participation in violence prevention measures are essential.

27. In order to avoid biased behaviour towards minorities, including biased application of the law which leads to confrontational behaviour and intercommunal tensions or violence, States should ensure that minorities are adequately represented and retained in law enforcement, security sector and judicial bodies at all levels. Affirmative action measures should be implemented, such as outreach to minorities and transparent recruitment processes based on principles that include fair and equitable representation of all minority groups in law enforcement bodies, including at senior levels.

28. Particularly in societies in which violence or conflict have previously broken out, risk assessment methodologies should be employed, built upon analysis of past violent events to assess the extent to which certain communities may face renewed threats of

violence. Events or situations such as elections or periods of political or social unrest that feature or might exacerbate divisions based on national, ethnic, religious or linguistic identity should be carefully monitored to prevent possible violence.

29. In situations of emerging tensions, authorities should ensure that law enforcement bodies are appropriate and well prepared for the situation at hand, including the deployment of ethnically and religiously mixed personnel to areas of intercommunal tension. Practices such as the establishment of neighbourhood watches or similar mechanisms should be considered in order to identify threats at an early stage and alert law enforcement bodies.

30. Oversight bodies should be established to guarantee a professional and accountable police and security sector, including by ensuring independent examination of policy, programmes, recruitment and other policing and security activities. Oversight bodies should include members of minorities and have the mandate and technical capacity to address complaints of unfair treatment and abuse against minorities. Dedicated and specialist attention should be given to complaints from women belonging to minorities who are victims of sexual and other forms of gender-based violence.

31. Both induction and in-service training of law enforcement personnel in human rights and minority rights are essential elements of appropriate policing practice and should be designed to foster greater tolerance and respect for diversity, including the integration of gender issues in all aspects of the security and policing sectors. Training of law enforcement personnel should build capacities in the areas of early warning, including risk assessment methodologies to ensure that security personnel are well equipped to act autonomously, objectively and in a timely manner to warn about and/or counter the risk of violence.

2. Recommendations to non-State actors

32. Minority community associations, non-governmental organizations and community leaders should be constantly engaged in detecting the early signs of potential violence. They should maintain channels of communication between them and with all relevant authorities in order to identify concerns and threats and allow authorities to respond rapidly to situations of emerging tension, including through the promotion of networks and alliances. They should ensure that those who may experience multiple or intersecting forms of discrimination, such as women, people with disabilities, older persons and lesbian, gay, bisexual, transgender and intersex persons, as well as young people, are represented in violence prevention initiatives.

33. Community leaders, including traditional, religious, youth and women leaders, should initiate and maintain constructive inter-ethnic and interreligious dialogue and should consider intercultural and interfaith initiatives, including youth initiatives, in order to promote harmonious relations, counter prejudices and misrepresentation about minorities and prevent violence potentially undertaken by terrorist or extremist nationalist, ethnic or religious actors. They should remain attentive to early signs of radicalization within their communities and prevent them from turning into violent extremism and sectarian violence.

34. Non-State actors and business enterprises should, in line with the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, promote and respect human rights wherever they operate, and refrain from any action which may create tensions between groups or directly or indirectly lead to violence targeted against minority groups, for example regarding land and access to resources or national development projects. Consultations with minorities should take place before pursuing any activity that may result in negative impacts on minorities and their environments or create community tensions.

35. Minority groups and majority communities should give special attention to the situation and perspectives of young people. Youth initiatives should be developed to

promote understanding, tolerance and mutual respect across communities as well as to eliminate the possible recruitment or exploitation of young people by groups that promote or incite violence.

36. National human rights institutions should consider establishing special units, sections or expertise on minority issues within their structures to ensure engagement with minority communities and monitoring of situations of potential threats and to support the implementation of human rights programmes in close contact and consultation with minority communities. National human rights institutions should be empowered to establish complaints mechanisms, accessible to persons or groups belonging to minorities, under which violence or the threat of violence may be addressed.

37. Public and private media bodies and sources should ensure minority representation and be accessible in different minority languages. Media bodies and sources must guarantee that they do not contribute to or allow hate speech and incitement to hatred or crimes of violence. Independent media monitoring bodies, including representatives of minorities, should be established to monitor media, social media and online output and, where necessary, raise concerns relating to incitement to violence with appropriate national authorities.

38. Minority groups and national non-governmental organizations should be aware of existing regional and international mechanisms in place and their potential role in preventing violence against minorities. Civil society should bring issues of emerging national concern to the attention of regional bodies and the international community.

3. Recommendations to regional and international actors

39. Regional human rights bodies should systematically pay attention to minority issues and potential threats to specific minorities within their work, including in the context of their monitoring of the implementation by States of regional and international standards. They should address specific questions to States on the situation of minorities and engage States on the nature of alleged threats or violence against minorities and on constructive ways of managing diversity as a preventive strategy.

40. Regional bodies should consider establishing specific regional mechanisms for the consideration of minority issues, including working groups, rapporteurs or other appropriate mechanisms that have the authority, inter alia, to undertake country visits and analyse situations where minority rights concerns exist. Coordinated regional early warning and urgent action mechanisms should be established and provided with adequate financial resources in order to respond quickly and appropriately to emerging situations of tension and prevent or limit their escalation into violence, serious human rights violations, or conflict.

41. International and regional organizations should increase their capacity to provide technical assistance to States, including in the fields of minority issues, non-discrimination, prevention of conflict and violence, and training of officials and law enforcement bodies. They should assist national authorities to disseminate and monitor implementation of regional and international norms and standards relevant to the protection of minorities from atrocity crimes, to deepen knowledge of the specific nature of atrocity crimes and to set up rules for mapping and assessing national capabilities in the institutional and judicial system. International and regional organizations should foster trust in the process of providing technical assistance and in the actors taking part in it and encourage close diplomatic relations with States in order to promote the delivery and implementation of such technical assistance.

42. The United Nations and its regional and subregional partners should improve their collective ability to prevent effectively and respond to future risks of serious violations of

minority rights, as stated in the Human Rights Up Front initiative, including by strengthening cooperation in respect of information gathering and sharing, and improving information flow between themselves and with States. They should improve expertise, exchange good practices and assessments of situations of common concern, and encourage mediation, diplomatic and dialogue initiatives to develop a common understanding of emerging security concerns, as well as ensure a timely and coordinated response.

43. The United Nations should assist States and civil society in building the capacity of minority communities and individuals to identify the specific issues they face, develop concrete solutions and empower minority groups and individuals to actively participate in the formulation and implementation of relevant local, regional and national law, policies and programmes aimed at preventing violence against minorities.

44. International and regional organizations should assist States and other relevant national stakeholders in disseminating findings and mapping implementation progress of United Nations human rights mechanisms and bodies. That should include the recommendations and concluding observations adopted by treaty bodies, those issued by special procedures and stemming from the Universal Periodic Review of the Human Rights Council and, when relevant to the situation, the recommendations of commissions of inquiry, fact-finding missions and other ad hoc human rights investigative mechanisms specifically addressing minority rights protection and promotion.

B. Recommendations to address ongoing violence

1. Recommendations to States

45. States must respect and ensure implementation of international human rights law and, where armed conflict is occurring, humanitarian law, regarding the protection of persons belonging to minorities who are at risk of or have experienced violence. All protective measures should take into account the complexity of situations in which minorities face recurrent violence from multiple actors, and should extend beyond the physical protection of individuals to the preservation of communities' cultural institutions, including places of worships, and livelihoods.

46. States have the primary responsibility to protect their populations from violence and atrocity crimes irrespective of national, ethnic, religious, linguistic or other identity, and should take immediate action in compliance with national and international law to stop violence as rapidly as possible and by all appropriate and proportionate means. Where appropriate, and on the basis of consultation and dialogue, States should provide technical and other assistance and support to other States to fulfil their responsibility to protect their population from violence or atrocity crimes.

47. States must ensure that minorities affected by violence, including the most marginalized groups and those affected by conflict in which they are not combatants, have access to immediate humanitarian aid and relief such as water, sanitation, food, shelter and health care and other essential services. Measures required may include the establishment of humanitarian corridors, safety zones and other protection and humanitarian access measures.

48. States must recognize that women belonging to minorities may be exposed to gender-specific forms of violence, including rape and other forms of sexual violence used as a "weapon" in conflict situations, forced marriage, trafficking and forced prostitution. States must take appropriate measures to protect women from the risks and threats of such violence.

49. States must take all feasible measures to ensure the protection and care of children belonging to minorities who are at risk of or have experienced violence, in accordance with the Convention on the Rights of the Child and international humanitarian law.

50. States should establish effective policing and security mechanisms capable of immediately stopping violence against minorities when it breaks out. They should establish and maintain strong and efficient channels of communication between communities and law enforcement bodies to enable communities under attack to contact State authorities quickly and trigger security responses.

51. Law enforcement personnel must be objective and professional, and act appropriately and without prejudice to protect minority communities. Positive practices include rapid deployment of ethnically and religiously mixed personnel to areas of intercommunal tension and violence, and appropriate command structures being put in place to enable officers on the ground to take operational decisions required to protect or defend communities experiencing violence.

52. Where appropriate, States should ensure that law enforcement responses to violence include deployment of female officers and other personnel who, where possible, are trained in dealing with women who may be victims of rape and other forms of gender-based violence.

53. States must ensure that minorities are not forced to leave their homes. In situations where minorities are forced to relocate for security reasons, relocation should take place with their free and informed consent and minorities, including women, should be involved in the planning and management of their relocation. Displacement locations should not expose minorities to additional risks, including those faced by women who may have to leave secure environments to collect food and water, access essential medical services and sanitation or other basic supplies. States should protect the property rights of minority groups and members of minorities, as well as their places of religious worship and cultural heritage.

54. Where possible, States should rapidly collect reliable data to establish and evaluate the impact of ongoing violence on minorities, including the number of deaths, injured persons, persons deprived of their liberty or displaced, and incidents of gender-based violence.

2. Recommendations to non-State actors

55. Other parties to armed conflicts, in particular any armed groups, must fully comply with international humanitarian and human rights law and should take all measures to ensure that the rights and security of minorities are adequately protected in areas under their control. Non-State armed groups should take part in interactive dialogue and a mediation process within the framework of peace negotiations to ensure the protection of civilians, in particular minorities facing atrocity crimes.

56. National human rights institutions should play a role in stopping violence, including by publicly denouncing violence, offering to act as impartial mediators in conflict situations, designing and implementing policies and programmes in emergency situations, monitoring, investigating and reporting episodes of targeted violence against minorities including, where necessary, to regional and international bodies.

57. National human rights institutions should promote consultation and dialogue with all parties to the conflict and conduct research and fact-finding missions in order to investigate incidents of violence against minorities. The role of national human rights institutions may be particularly important in mediation and independent investigation, particularly where the State and/or law enforcement bodies are perpetrators of, or implicated in, violence.

58. National human rights institutions or ombudsman's offices should consider establishing local offices or deploying staff to localities in which violence has taken place or is ongoing in order to closely monitor and report on situations.

59. Community and religious leaders should maintain inter-ethnic and interreligious dialogue when violence has broken out in order to help end violence and initiate action to protect minorities from continuing violence and possible atrocity crimes.

60. Media should report impartially and objectively on ongoing violence against minorities and conflict, using neutral language that does not aggravate tensions or increase the exposure of minorities to further violence.

61. As appropriate, non-governmental organizations and humanitarian actors should deploy staff and resources to provide assistance to minorities affected by violence. In the delivery of assistance, they should ensure that minorities participate in the formulation of resulting humanitarian strategies and that their operations do not expose their staff or any recipient of assistance to potential further violence.

3. Recommendations to regional and international actors

62. United Nations and regional human rights monitoring mechanisms should promptly monitor deteriorating situations of violence, including systematic and widespread sexual and gender-based violence, support initiatives in the area of humanitarian access and seek to employ all procedural and diplomatic means at their disposal to rapidly contribute to ending violence, for example by undertaking fact-finding missions to investigate atrocity crimes that may have been committed.

63. International and regional organizations should promptly assist States to engage in conflict resolution and stabilization efforts. They should ensure that such efforts address immediate protection concerns, as well as the structural causes of the conflict. International and regional organizations should ensure minorities' participation in the formulation of resulting strategies for those efforts. Such inclusive approaches to consultation should also include minority communities which have not taken up arms.

64. The Human Rights Council, the special procedures, the Special Adviser of the Secretary-General on the Prevention of Genocide and other relevant mechanisms should consider ways of strengthening the processing, management and evaluation of information about ongoing serious violations of minority rights and bringing information rapidly to the attention of relevant United Nations decision-making bodies, including the General Assembly and the Security Council.

65. In upholding the responsibility to protect principle, a range of tools and measures that do not involve the use of force are available to regional and international organizations. They should be prioritized and used in a calibrated and targeted way to provide protection, including targeted economic sanctions and travel bans on suspected perpetrators of mass atrocities.

66. In situations in which there is little domestic accountability, and in order to avoid creating security vacuums that can leave minorities at heightened risk, international and regional rapid-response accountability measures should be in place to reinforce domestic accountability capacities. They should include measures to provide physical protection to judges, lawyers and human rights defenders, and legal assistance to try cases involving serious criminality as well as mass atrocities.

67. As appropriate to the circumstances and the nature and extent of the violence being perpetrated, and in conformity with international law and standards, including the principle of the responsibility to protect, the international community should consider all means necessary to end acts of violence targeted against minorities. While diplomatic, mediation

and assistance measures should be prioritized, the international community must be prepared to take collective action, in accordance with Chapter VII of the Charter of the United Nations, if a State is manifestly failing to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

C. Recommendations for post-violence situations

1. Recommendations to States

68. In post-violence settings, including in the immediate aftermath of violence, States should intensify their efforts to ensure the comprehensive implementation of minority rights, non-discrimination and equality standards. Those rights and standards constitute the foundation for the prevention of further violence against minorities and help to establish the conditions for rebuilding divided societies, as well as their social, economic and cultural well-being.

69. In immediate post-violence settings, States should establish and implement effective communication strategies to assist in monitoring the situation and immediately open constructive dialogue with minority community leaders to hear their concerns, immediate needs and to help to build or restore trust and confidence.

70. Assessment of ongoing and urgent security and humanitarian situations should be undertaken to identify immediate and medium to longer term needs and risks posed to different minority communities, particularly where displacement has occurred, livelihoods have been affected and rapid return to places of origin is not possible.

71. In the immediate aftermath of violence or conflict, States should respond coherently, rapidly and effectively to provide basic safety and physical security to minorities, including the provision of basic services such as shelter, water and sanitation, health care and primary education.

72. Following incidents of violence or conflict, minority women and girls may be at particular risk of gender-based violence. States should pay particular attention to the situation of women belonging to diverse ethnic, national, religious or other minorities, who are often a target in post-violence scenarios as symbolic representatives of their community. Where women in post-violence situations have taken on household and community leadership roles, those roles should be recognized and fully integrated into post-violence decision-making processes.

73. States should pay particular attention to the situation and security of minorities affected by conflict in which they have been caught up, but to which they are not parties, including by protecting minorities from violence and from forced conversion by the main parties to the conflict.

74. In conformity with the Guiding Principles on Internal Displacement, States should pay particular attention to communities that have been internally displaced in the aftermath of violence or conflict. States should assess their needs and, where appropriate, ensure their secure, sustainable and voluntary return to their places of origin. Any decision upon their return or resettlement must be taken in consultation with communities, and in situations of protracted displacement, appropriate, durable, medium and long-term solutions should be put in place.

75. States should conduct in-depth analysis on violence and conflicts to uncover their underlying causes, including long-term structural causes, and to prevent violence reoccurring or developing into full-scale conflict. To that end, any conflict analysis framework should incorporate indicators on minority rights.

76. Fact-finding and investigations into violence should be undertaken at the earliest possible stage, including investigation of deaths, injuries, enforced disappearance and other serious violations and acts of violence against individual members of communities. Fact-finding should include an assessment of whether an ongoing or continuing risk of violence exists. Where the threat of continuing violence exists, an appropriate law enforcement response should be ensured either via the maintenance or strengthening of a law enforcement presence.

77. States should ensure equal and effective access to justice and accountability measures as a means to redress the legacies of human rights violations and atrocity crimes, ensure accountability, serve justice and achieve reconciliation. States should ensure that there is an enabling environment for minorities to access formal justice, including by guaranteeing their personal safety and security, identifying and overcoming legislative, administrative, social or cultural barriers that minorities, especially women, may face in exercising their right to access to justice. Such barriers may include onerous and discriminatory rules of evidence and procedural requirements, amnesty and immunity provisions. Community level justice initiatives may play a role, provided that they uphold basic human rights standards, including with regards to women's rights.

78. Transitional justice processes and mechanisms should be considered as a critical component of any framework aimed at restoring and strengthening the rule of law, provided that they are accessible, independent, impartial and effective for receiving, investigating and adjudicating complaints arising from an individual or groups of individuals belonging to minorities, including women and those who are most marginalized. Transitional justice processes and mechanisms should be informed by the four pillars underpinning transitional justice and accountability measures: the right to truth at both an individual and social level, the right to justice, the right to reparation and the guarantee of non-recurrence.

79. Post-violence truth, justice and reconciliation programmes should be designed with the full participation of the minority communities affected. They must be sensitive to the ways in which the deliberate targeting of people on the basis of their nationality, ethnic or religious identity may cause distinctive harms and should aim at empowering minority victims and providing justice and reparations, as well as restoring their dignity and life chances. Recovery and peacebuilding programmes and strategies in post-violence settings should be designed to reflect the interlinked and mutually reinforcing nature of development, peace and security and human rights issues affecting minorities.

80. In post-conflict situations, States should acknowledge the violence inflicted upon targeted groups. To that end, States should acknowledge the pivotal role of documentation, preservation and presentation of memory in the reconstruction of societies. States should take concrete measures to build a collective understanding of the past and strengthen the process of healing, including through the reconstruction of symbolic sites, socially determined spaces and infrastructures, commemoration events, or the erection of monuments. Particular attention should be given to the ways in which memory and mourning processes are framed, collected and perpetuated, including in the media and the education system.

2. Recommendations to non-State actors

81. The work of humanitarian actors in post-conflict and post-violence settings should be guided by the principles of humanity, neutrality, impartiality and independence. It should pay particular attention to ensuring that assistance reaches affected minority communities and that no discrimination or exclusion in access to assistance is experienced by minorities. Timely assistance should be provided to minority women who may be survivors of sexual violence, as should comprehensive health services, including sexual and reproductive health

for survivors of sexual violence. In delivery of assistance, humanitarian actors should ensure that their operations do not expose any recipient to potential further violence.

82. All actors conducting needs assessments on post-conflict or post-violence should be aware of political and security dimensions affecting minorities and should enable effective minority engagement with political and security actors present on the ground. Needs assessments should be undertaken by teams equipped with appropriate expertise in minority rights, using assessment tools designed in consultation with minorities.

83. Minority communities should build or renew communication inside the communities of victims, and where possible with other communities, including those that may have been perpetrators of violence. To that end, community leaders may consider engaging in programmes aimed at fostering dialogue and mutual trust, including memorialization at the individual, community and collective levels.

84. The media can play a significant role in promoting interfaith and intercultural dialogue among communities and in enhancing the development of a culture of peace and dialogue, including through independent and impartial coverage of events and post-violence or post-conflict peace processes.

85. Young people belonging to minority and majority groups affected by violence or conflict, either as victims, perpetrators or having played no role in the violence, should be encouraged to engage in face-to-face dialogue, identifying shared values, exploring cultural differences and discussing the issues of peace.

86. National human rights institutions should participate fully in the restoration of a strong human rights culture, including by focusing on training, education and public awareness programmes aimed at ensuring that minority rights are both understood and respected. They should monitor, inform and advise State authorities on specific post-violence issues affecting minorities and follow up on the integration of the rights and perspectives of minorities in any of the post-violence and reconstruction agendas.

3. Recommendations to regional and international actors

87. Regional organizations should maintain close and ongoing communication with national governments where violence has taken place and where necessary to support mediation, security, human rights and humanitarian responses.

88. As appropriate and in conformity with existing procedures and mechanisms, the United Nations should consider establishing commissions of inquiry comprising international experts to independently examine incidents of violence and accountability for atrocity crimes, and make recommendations based upon their assessments. States under investigation should cooperate fully with such inquiries and should provide full and unfettered access to commission members.

89. The United Nations should strive to ensure that transitional justice processes and mechanisms take account of the root causes of conflict, and address violations of all rights, including economic, social and cultural rights.

90. Relevant field-based United Nations bodies, mechanisms and specialized agencies should ensure that they have sufficient dedicated expertise on minority rights to promote and coordinate peacebuilding capacity development efforts in countries where intercommunal violence has been experienced.

91. As appropriate and in conformity with international law, the international community may consider supporting recourse to the International Criminal Court when States are unwilling or unable to prosecute the perpetrators of atrocity crimes against minorities.

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Human rights situation in Palestine and other occupied Arab territories

Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Makarim Wibisono

Summary

The present report, submitted pursuant to Commission on Human Rights resolution 1993/2 A and Human Rights Council resolution 5/1, is primarily based on interviews and briefings held with victims, civil society representatives, human rights defenders, and Palestinian officials, among others, in Amman and Cairo in September 2014. The Special Rapporteur made every effort to contact Palestinian victims and witnesses via video and teleconference. In the report, he addresses a number of concerns pertaining to the situation of human rights in the Occupied Palestinian Territory, and in particular, on their impact on children.

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I. Introduction

1. Since assuming his mandate in June 2014, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 as spared no effort to secure cooperation of the concerned countries and to conduct a mission to Israel and the Occupied Palestinian Territory, in order to have the opportunity of seeing, hearing and asking his own questions directly to Palestinian victims and various witnesses regarding the situation of human rights in the Occupied Palestinian Territory. To that end, the Special Rapporteur made great efforts to build a relationship of trust with representatives of both Israel and of the State of Palestine.[1]

2. From the outset, together with thematic special procedures mandate holders, the Special Rapporteur expressed serious reservations to the Government of Israel about the nature of Israeli policies and practices in the Occupied Palestinian Territory. Joint letters of allegation and urgent appeals were sent on serious alleged violations of international humanitarian law and international human rights law. The concerns raised included the alleged failures to abide by international legal principles leading to the killings of civilians in the Gaza Strip during Israel's 2014 military operation; the alleged excessive use of force by Israeli security forces during a peaceful demonstration in the West Bank; and the steps being taken by the Government of Israel, which would reportedly lead to the forced eviction and forcible transfer of Palestinian Bedouin communities currently residing in the central West Bank.[2]

3. The Special Rapporteur appreciated the openness to dialogue shown by the representatives of the Governments of Israel and Palestine in Geneva. In June 2014, immediately after taking up his position, the Special Rapporteur informed them of his intention to visit the Occupied Palestinian Territory. In response to a formal request to undertake a country visit by the Special Rapporteur in August 2014, the Permanent Observer Mission of State of Palestine expressed its willingness to assist with the mission, including for consultations with relevant consultations and meetings with relevant authorities. No formal response was received from the Permanent Mission of Israel. The Special Rapporteur persevered in his efforts to seek access through informal dialogue with the Permanent Representative of Israel in Geneva; as at late December 2014, however, none had been granted.

4. Owing to the failure of Israel to provide full and free access to the Occupied Palestinian Territory, the present report is based primarily on information collected during the first mission conducted by the Special Rapporteur to the region, including to Amman, on 20 and 21 September 2014, and to Cairo, from 22 to 28 September 2014, to hold interviews and briefings with, inter alia, victims, civil society representatives, human rights defenders and Palestinian officials. Representatives of United Nations entities and non-governmental organizations and Palestinian officials, including ministers, travelled to Amman from the West Bank, including East Jerusalem, to meet with the Special Rapporteur.

5. Given the lack of access via Israel, the Special Rapporteur had hoped to visit Gaza through the Rafah crossing; this was not possible, however, owing to circumstances beyond his control. In order to hear directly from interlocutors based in Gaza, he held video and teleconferences with those directly affected by the recent escalation of hostilities. The Special Rapporteur extends his sincere appreciation to all those who provided him with

[1] See A/69/301 and Corr.1.
[2] See A/HRC/28/85.

testimony and information pertaining to the situation of human rights in the Occupied Palestinian Territory. He is also grateful for the full cooperation extended to him during the mission by the Government of the State of Palestine and for the assistance given by the Governments of Egypt and Jordan.

6. The report begins by addressing the humanitarian crisis in the Gaza Strip and the impact of the latest round of violence between Israel, on the one hand, and Hamas and other Palestinian armed groups, on the other, from 7 July to 26 August 2014. The information recorded and provided by the Office of the United Nations High Commissioner for Human Rights (OHCHR) showed that 2,256 Palestinians were killed, of whom 1,563 were civilians, including 538 children.[3] The numbers speak volumes about the scale of the devastation, but statistics alone cannot do justice to the intensity of human suffering or explain the impact that the conflict will have on Palestinians living in Gaza for months and years to come. It is hoped that the information and testimonies received by the Special Rapporteur will provide a glimpse of the human narrative of those two tragic months and illuminate some of the challenges and problems that lie ahead, particularly with regard to health and education in Gaza.[4]

7. In the present report, the Special Rapporteur will also address a number of equally important issues of serious concern affecting human rights in the Occupied Palestinian Territory and make a number of recommendations to the Government of Israel.

8. The present report is not an exhaustive account of the impact of Israeli occupation policies and practices on the rights of Palestinians that were brought to the attention of the Special Rapporteur. Indeed, there is a long list of pressing human rights issues that merit attention: from the expansion of settlements to settler violence; discriminatory policies in East Jerusalem; and the involvement of businesses in the Occupied Palestinian Territory, to name but a few. The Special Rapporteur intends to address these and other issues in future reports. However, as a starting point, the Special Rapporteur has placed most weight on the accounts he heard directly from the victims of the recent hostilities, and hopes to narrate faithfully the ordeal of those who lived through the traumatic 51 days of conflict, focusing in particular on the impact of children, who account for more than half the population of 1.8 million people in Gaza and represent the future of Palestine.

9. On a final introductory note, the Special Rapporteur reiterates that it is in Israel's own interest to grant the mandate holder full and unconditional access to Israel and the Occupied Palestinian Territory.[5] The Special Rapporteur continues to believe that the engagement of Israel would contribute to the effective and even-handed implementation of the mandate. Cooperation with the mandate would be a manifestation of the responsibility of a Member State to respect and protect human rights.

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[3] erification of data continues.

[4] In the present report, the Special Rapporteur will not consider individual incidents of alleged international law violations in the Occupied Palestinian Territory in the context of military operations conducted since 13 June 2014, which a commission of inquiry was tasked to do by the Human Rights Council in its resolution S-21/1.

[5] The request to enter Israel was made in order to meet with relevant Israeli authorities to discuss the situation of human rights in the Occupied Palestinian Territory. The Special Rapporteur is not mandated to investigate the situation of human rights in Israel.

II. Situation of human rights in the Gaza Strip

A. Overview

10. As many Palestinians in Gaza reminded the Special Rapporteur, the seven-year blockade by Israel, coupled with the access-restricted areas along its border often imposed with excessive use of force by the Israel Defense Forces, forces the Palestinian people living in Gaza to live in a perpetual state of humanitarian crisis.[6] At the most basic level, this has restricted Palestinian agriculture and fishing, and all too frequently impinged upon the right to life of Palestinian farmers and fishermen. According to information provided by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the severe restrictions on imports and exports have also denied Palestinians in Gaza the right to meaningful economic development and indeed dragged Gaza back towards a state of de-development, leaving 80 per cent of the population chronically dependent on aid. Frequent power shortages and periodic winter flooding have further exacerbated living conditions for Palestinians in Gaza. Moreover, before the escalation of hostilities during the summer of 2014, Palestinians in Gaza had lived through two previous conflicts with Israel, in 2008 and 2009, and again in 2012, which led to destruction and devastation. Israel may have withdrawn its soldiers from Gaza in the context of its unilateral disengagement in 2005; in terms of the control over the territory it exercises, however, it remains the occupying Power.

11. According to the OHCHR, in the latest round of violence between Israel on the one hand, and Hamas and other Palestinian armed groups on the other, from 7 July to 26 August 2014 (operation "Protective Edge") 2,256 Palestinian fatalities were recorded, of whom 1,563 were civilians, including 538 children.[7] This surpassed the combined number of casualties of the two previous conflicts in Gaza. On the Israeli side, 66 soldiers and five civilians were reportedly killed. The Special Rapporteur is aware that thousands of indiscriminate rockets were reportedly fired by Palestinian armed groups from Gaza. The stark disparity in casualty figures on the two sides, however, reflects the skewered balance of power and the disproportionate cost borne by Palestinian civilians, raising questions as to whether Israel adhered to the international law principles of distinction, proportionality and precautions. The 51-day conflict, tempered only by fleeting humanitarian pauses, adversely affected just about every human right, including the rights to adequate housing, health, water, education, work and, last but not least, life.

B. Destruction of civilian homes and infrastructure

12. The most striking aspect of the military operations conducted by Israel was its apparent deliberate targeting of civilian homes and multi-storey apartment blocks, which resulted in entire families being buried under the rubble of their homes.[8] In what many witnesses cited as the most egregious example of disproportionality, a multi-storey apartment block known as the "Gaza Twin Towers" was razed to the ground towards the

[6] The Secretary-General and the United Nations High Commissioner for Human Rights have consistently noted that the Israeli blockade of Gaza contravenes international law; see A/69/347, paras. 30 – 34, and A/HRC/25/40, paras. 24 – 30.

[7] See Office for the Coordination of Humanitarian Assistance, Gaza Strip, Humanitarian Dashboard, November 2014.

[8] "Families under the rubble: Israeli attacks on inhabited homes", Amnesty International, 5 November 2014.

end of Israeli military operations. Other apartment towers flattened by Israeli strikes included the 12-storey al-Zafer tower 4, the Italian tower and the al-Basha tower. Countless reports of schools, mosques and hospitals allegedly targeted during the military operations were also received. An international non-governmental organisation reported that 25 ambulances of the Palestinian Red Crescent were also hit, including 12 that were either destroyed or rendered inoperable.

13. Prominent human rights defenders based in Gaza observed, "never in our lives have we seen that level of destruction", referring to certain neighbourhoods and towns that were particularly hard hit, such as Shuja'iya, Khuza'a and Rafah. Even experienced humanitarian workers, exposed to some of the worst conflict zones across the world, informed the Special Rapporteur that what they saw in Gaza was "shocking, by all accounts". Three months after the ceasefire, the impact of Israeli strikes on the water and sanitation facilities in Gaza were still being felt, with 20 to 30 per cent of households, or 450,000 people, still without access to municipal water because of the damage caused.[9]

14. UNRWA schools serving as emergency shelters for internally displaced persons, the exact position of which had been notified to the Israeli Defense Forces, were allegedly targeted by shells or other munitions on at least seven separate occasions, resulting in at least 42 deaths, including 11 UNRWA staff members. In one incident involving a UNRWA school in Jabaliya, on 30 July, Israeli shelling allegedly killed 16 people and injured another 100. According to UNRWA, it had already informed the Israeli military authorities of the location of the school 17 times, including once only a few hours prior to the attack. The Special Rapporteur notes that the Secretary-General established, in November 2014, a board of inquiry to review and investigate a number of specific incidents in which death or injuries occurred at and/or damage was done to United Nations premises. The Special Rapporteur is also aware that Israel has established its own fact-finding assessment mechanism and has opened a number of criminal investigations into certain selected cases of alleged violations of international law. It remains to be seen if this can bring any measure of meaningful accountability to Palestinian victims in the light of the criticism levelled by observers to date.[10]

C. Mass displacement

15. At the height of the escalation of hostilities, an estimated 500,000 people were internally displaced across Gaza, many of them forced to take shelter in UNRWA schools,[11] government-run schools or with extended family or friends.[12] Many of the school buildings were not designed to serve as shelters, and the sheer number of internally displaced persons seeking shelter reportedly resulted in severe overcrowding and put a considerable strain on sanitation facilities. According to a humanitarian aid worker who visited the schools, the general overcrowding of schools with limited capacity had led to a lack of privacy for families and inadequate hygiene and sanitation conditions that brought about various stress-

[9] Office for the Coordination of Humanitarian Assistance, 'Gaza Strip: Humanitarian Dashboard', November 2014

[10] See Decisions of the Israel Defense Forces Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2, 7 December 2014, and "Israel's Gaza probe raises questions", Al Jazeera, 8 December 2014.

[11] As at October 2014, 18 UNRWA school buildings still served as collective centres for approximately 38,346 internally displaced persons, an estimated 60 per cent of whom are children.

[12] As at November 2014, an estimated 100,000 people were still internally displaced in Gaza and in need of immediate assistance. See Office for the Coordination of Humanitarian Assistance, 'Gaza Strip: Humanitarian Dashboard', November 2014

related ailments, including dermatological conditions. Beyond the school shelters, host families were also reportedly rapidly overwhelmed by the burden of having to host as many as 30 extended family members and relatives, putting considerable financial and psychological strain on all family members. The desperation was summed up by a woman who, exasperated, told a United Nations staff member distributing food items that, "I don't want food; I want a future for my children".

16. A Palestinian human rights defender originally from Shuja'iya explained that "those people's minds were as hard as a rock and so attached to their land that they would never leave so easily". Nonetheless, within minutes of the Israeli assault on that particular neighbourhood on 20 July, he recalled how the bombs, tank shells and naval artillery "shook the ground like an earthquake and opened the gates of hell". By 6 p.m., 150,000 people were reportedly trying to flee the area. A Palestinian staff member of a non-governmental organization, speaking also as a mother and former resident from Beit Hanoun, described how the Israelis had called and ordered them to evacuate their home. "We only had a few moments to gather important documents and to take the children out", she said. "When you look at the framed photos of family and friends on the wall and feel the warmth of your own home, it's not easy to just leave not knowing if you will ever come back again."

17. Israel reportedly gave warnings prior to some airstrikes by telephone, text messaging and leaflet drops across the Gaza Strip. Palestinian human rights defenders, however, explained that, in such a confined and densely populated area, for many people there was simply nowhere to run, no safe passage or safe haven, not even in the United Nations shelters. This was particularly the case for the most vulnerable residents: young children, the elderly, pregnant women and the physically disabled. Some witnesses pointed out that young Palestinians in Gaza would choose to go from one potential death in Gaza to another by crossing the Mediterranean in rickety boats in an attempt to reach Europe, which showed and how desperate people were to leave Gaza.

D. Civilian casualties: families and children

18. According to OHCHR, some 69 per cent of the Palestinians killed during the hostilities in Gaza were civilians. An Israeli organization compiling its own statistics on Palestinian fatalities has so far found the Palestinian civilian to combatant casualty ratio to be somewhat lower, at 48 per cent.[13] On both counts, serious questions arise with regard to Israel's adherence to the principles of international humanitarian law.

19. The most striking aspect of the most recent conflict was the way in which most civilian victims were not simply bystanders on the street in the wrong place at the wrong time. As the Special Rapporteur heard time and again, most victims were families killed in missile strikes on their own homes, usually at night. Palestinian human rights defenders noted that some entire families, including the Najar and Abu Kaware families, were "simply wiped off the registries".

20. In the non-exhaustive list of cases brought to the attention of the Special Rapporteur, almost all of the families listed lost one or more infants or children, killed in attacks on their homes. In some cases, pregnant women and elderly persons were also killed. This non-exhaustive list includes the following names: Al-Haj, Al-Batsh, Al-Awdat, Shuheebar,

[13] This ratio is based on 54 per cent of verified fatalities. See Meir Amit Intelligence and Terrorism Information Center, "Examination of the names of the Palestinians killed in Operation Protective Edge", 1 December 2014.

Abu Jarad, Al-Hallaq, Ammar, Abu Jame' Siyam, Al-Qassas, Abu Eeta, Al-Najjar, Al-Helu, Abu Jaber, Abu Khousa, Abu Zaid, Duhair, Al-Hashash, Abu 'Amer, Breeker, Mu'ammar, Balata, Al-Khalili, Al-Bayoumi, Al-Farra, Abu Suleiman, Abu Madi, Al Ghoul, Al-Majdalawi, Abu Nijm-Al Masri, Al-Bakri, Uwaida, Wahdan, Al-Dalu, Al-Louh, Kellab, Abu Dahrouj, Mheesin, Joudeh and Tanboura. Overall, at least 999 family members were reportedly killed inside their houses, including 329 children. A further 233 people were killed in the vicinity of their houses, in some cases while attempting to flee.[14]

21. The most recent round of conflict was in fact far deadlier for children than the previous hostilities in 2008 and 2009 and in 2012. On average, 10 children died every day over a period of 50 days – an appalling statistic by any measure, which cannot be dismissed as collateral damage. According to UNRWA, the conflict over the summer resulted in up to 1,500 new orphans, including at least 560 UNRWA students, who were in need of sustained child protection and welfare support. Palestinian human rights organizations described the reported high civilian toll as "a direct consequence of Israel's large scale, deliberate and systematic military attacks against family homes". All the information received to date by the Special Rapporteur supports the validity of this claim.

22. Israel has justified its use of force against civilian infrastructure by noting that Palestinian armed groups had fired rockets indiscriminately from the above-mentioned facilities.[15] However, the testimonies heard by the Special Rapporteur from human rights defenders and victims from Gaza, collaborated by the sheer scale of destruction that can be seen in satellite imagery made available by the United Nations, raises serious questions as to whether the Israel Defense Forces adhered to principles of proportionality and distinction.[16] It is also relevant to recall that the High Contracting Parties to the Fourth Geneva Convention affirmed in its declaration of 17 December 2014 that "no violation of international humanitarian law by any party to a conflict can relieve the other party from its own obligations under international humanitarian law".

23. Long after the ceasefire, unexploded remnants of war continue to pose a threat, particularly to children in Gaza. It is estimated that 7,000 unexploded ordinances are still littered across the Gaza Strip under the rubble and debris of flattened neighbourhoods. At the end of October 2014, the United Nations Mine Action Service reported at least seven civilian fatalities as a result of unexploded remnants of war, and 14 others injured.[17] In the latest such incident, on 4 December 2014, four Palestinian women, including three children, were reportedly injured (two of them with serious shrapnel wounds) at the home of the Abu Mer'ie family when one family member picked up an oddly shaped piece of metal. The family had just returned to their house in the al-Zaytoun neighbourhood in Gaza City a few days earlier in order to carry out repairs.[18]

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[14] Information provided by Al Mezan Centre for Human Rights and Lawyers for Palestinian Human Rights. See also Al Mezan Centre for Human Rights and Lawyers for Palestinian Human Rights, "Complaint concerning destruction and damage to family houses in the Gaza Strip with associated loss of life and injury to Palestinian residents, during Israel's military operation between 7 July 2014 and 26 August 2014".

[15] Mission of Israel to the UN in Geneva, "What you can't see on the UN maps of Gaza", and "Hamas' exploitation of civilian facilities", 26 August 2014.

[16] See Office for the Coordination of Humanitarian Affairs, Occupied Palestinian Territory, Assessment of physical damages in Gaza using satellite images (Before and after).

[17] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin, Monthly Report, September 2014.

[18] Palestinian Centre for Human Rights, Weekly Report on Israeli Human Rights Violations in the Occupied Palestinian Territory (04-10 December 2014), 11 December 2014.

24. In August 2014, the Special Rapporteur addressed a letter of allegation to the Government of Israel on emblematic cases of alleged disproportionate or indiscriminate attacks that had resulted in the killing of innocent civilians, including children. While no response to the letter had been received as at 9 December 2014, the Military Advocate General ordered a number of cases to be closed, including one of the cases raised by the Special Rapporteur together with the Special Rapporteur on extrajudicial, summary or arbitrary executions regarding the killing of two disabled Palestinian women at a care centre in Beit Lahiya on 12 July 2014.[19]

E. Right to health

25. According to the Palestinian Ministry of Heath, more than 11,100 Palestinians, including 3,374 children, were injured during the hostilities in July and August 2014.[20] Ministry officials noted that an estimated 3,500 patients were admitted to hospital requiring surgical interventions. Many Palestinians, including children, are now struggling with life-long disabilities. An estimated 30 per cent of children in Gaza were exposed to high levels of traumatic stress. Tens of thousands of men, women and children live with the trauma of having witnessed the horrific killings of family members, friends and neighbours before their own eyes.

26. Health professionals based in Gaza recounted to the Special Rapporteur that, while treating dozens of patients every day in the emergency ward, the hospitals where they worked also came under attack from Israeli airstrikes and shelling. A representative of the World Health Organization (WHO) reported that 75 hospitals, primary health centres and clinics were damaged and in need of repair or maintenance. One hospital (Al Wafa) and five other primary health centres had been totally destroyed, while two others and five clinics had sustained major damage; 63 health-care facilities suffered minor damage. In one attack, on 19 July, the Shuhada al-Aqsa hospital in central Gaza was hit by multiple rounds of tank shells, reportedly killing one patient, a nurse and three medical staffers. The same attack destroyed the operating theatres and life support units of the hospital, severely hampering its ability to care for patients.

27. The right to health for the population in Gaza during the conflict was affected not only by direct hits on hospitals and medical facilities (a total of 23 medical personnel were reportedly killed), but also as a result of the lack of access to medical facilities. Health professionals pointed out that the precarious security conditions made it difficult for staff and patients alike to reach hospitals and clinics. Access was reportedly severely limited to an estimated 60 per cent of primary health centres, while some 30 per cent of medical personnel had no regular access to their workplaces. Palestinian doctors also explained to the Special Rapporteur that treating patients with pre-existing health conditions had been complicated by the loss of patient records, destroyed following airstrikes on medical facilities.

28. Around 600 patients were reportedly referred for treatment outside of Gaza, including in hospitals in the West Bank, Egypt, Jordan, Turkey and Germany, given the lack of medical equipment and specialised doctors available in Gaza. In September 2014, many of these patients from Gaza were still being treated abroad, separated from their families in a foreign environment in need of continuous monitoring following surgical

[19] Decisions of the IDF Military Advocate General regarding Exceptional Incidents that Occurred during Operation 'Protective Edge' – Update No. 2, 7 December 2014

[20] Office for the Coordination of Humanitarian Affairs, Gaza Crisis Appeal, September 2014 Update (available from www.ochaopt.org/documents/gaza_crisis_appeal_9_september.pdf), p. 8.

interventions. These relatively fortunate patients accounted for, however, only a fraction of the thousands of Palestinians in need of treatment unavailable within Gaza, but not granted permits by Israel to leave the territory. Palestinian doctors and health professionals in Gaza explained that the inadequacy of their own medical facilities and the lack of trained specialists were a consequence of the years of blockade that prohibited the import of potential "dual-use" materials and the travel restrictions imposed by the Israeli authorities that prevented young doctors and medical personnel from receiving advanced medical training abroad.

29. In such circumstances, Palestinian health specialists pointed out that the presence of a number of foreign doctors in Gaza during the conflict had helped considerably, but could not compensate for the inadequate facilities available in Gaza. According to health specialists in Gaza, the medical equipment most needed included radioscopy, ultrascan and optical equipment, as well as drugs, vaccines and other basic disposables, such as gloves and gauze. The electricity crisis that resulted from the strike on the only power station in Gaza on 29 July, during Israeli military operations, also weighed heavily on the provision of health care, as back-up generators were pushed to the limit.

30. On 21 September 2014, the Special Rapporteur visited King Hussein hospital in Amman where a number of Palestinian patients from Gaza were being treated. One young Palestinian woman had been injured when three Israeli missiles hit her family home near Khan Younis without any warning on the evening of 8 July 2014. Her three brothers and grandmother were killed instantly, and a total of 12 family members suffered injuries. She suffered further injuries when the ambulance, which was evacuating her, was hit on route to the hospital, resulting in a serious injury to her hip and shrapnel injuries across her body.

31. The Special Rapporteur also met with a 14 year-old girl from Beit Hanoun, who lost both her legs and suffered shrapnel wounds and internal injuries when, on 25 July 2014, an Israeli strike hit a UNRWA school, which was being used as a shelter. Her distraught father recounted that she had lost her mother and three brothers in the same attack. According to his testimony, they had decided to evacuate their home a week after the start of hostilities. They first sought shelter at Beit Hanoun hospital, but had moved on to the UNRWA school serving as an emergency shelter, which they thought a safe haven. Despite the visible pain on the girl's face, she expressed her eagerness to return to school, and shared her dream: "One day, I want to become a teacher". Children with conflict-inflicted disabilities will certainly require long-term care and support at both school and home. Doctors, health professionals and teachers all highlighted the long-term consequences for the population at large.

32. Community health workers in Gaza informed the Special Rapporteur that they were already dealing with many new cases of children suffering from bedwetting, difficulties in sleeping, nightmares, panic attacks, speech problems, a loss of appetite and alienation from parents. Among other recent findings, the Special Rapporteur received an increasing number of reports of physical violence against children within their families and communities occurring in the context of increased stress faced by parents and relatives. There were also reportedly cases of sexual abuse, particularly of adolescent girls in shelters and in host communities.[21]

33. Israel reportedly justified its strikes on schools and hospitals in Gaza by claiming that militants were firing rockets from inside those premises; according to the Palestinian doctors from Gaza who spoke with the Special Rapporteur, no rockets had been fired from

[21] Office for the Coordination of Humanitarian Affairs, Humanitarian Bulletin, Monthly Report, October 2014.

within hospitals. The doctors added that, in any case, they should not be punished for what occurred in the vicinity of hospitals.

F. Right to education

34. Two months of Israeli military operations in Gaza also had a profound impact on access to education and disrupted schooling for children in Gaza. A total of 228 schools (approximately one third) of all schools, including 83 UNRWA schools, were damaged during the attacks; 26 schools were totally destroyed or damaged beyond repair. Schools in Gaza reopened three weeks late, on 14 September 2014, and began with an initial period of psychosocial support and recreational activities for children.[22] With on average only one counsellor per school, however, education experts in Gaza raised concerns about the shortage of trained teachers qualified to offer adequate psychosocial support to children. Education specialists added that teachers themselves had been victims of traumatic experience and would also require appropriate support.

35. According to the Education Cluster, which brings together non-governmental organizations, United Nations agencies, academics and other partners under the shared goal of ensuring predictable, well-coordinated and equitable provision of education for populations affected by humanitarian crises, attendance at the start of the year was mixed as a result of the massive internal displacement of Palestinian families. UNRWA and Government-run schools allowed the transfer of displaced students to schools closer to their current places of residence, but some 87 schools were still operating double shifts. A number of teachers expressed concerns that overcrowded classrooms of up to 60 pupils affected the quality of education. Education specialists also pointed out that many of the schools that served as shelters during the conflict had valuable equipment damaged or missing.

36. Schools in Gaza are already reportedly seeing more aggressive behaviour in pupils, while mental health specialists have warned that the traumatic events experienced by children during the conflict would have a lasting impact on cognitive development and have broader social implications. Community health workers also expressed concern that, in some children, their traumatic experience could nurture a desire for revenge. It was also unclear whether schools would be able to cope with any influx of disabled children requiring specialized educational assistance.

37. In Gaza, the higher education sector, which serves up to 95,000 students, was also seriously affected by the hostilities. Many of the 28 higher education institutions in Gaza were damaged during the conflict. The hostilities also affected the number of new enrolments for the new term. Education specialists noted, however, that the blockade was also responsible for changing the views of parents about the value of investing in higher education for their children in the context of perpetually high unemployment rates and the lack of job prospects for highly qualified graduates. Schools moreover lacked essential equipment and resources to motivate students and were unable to offer opportunities for academic exchanges or to bring in foreign expertise to contribute to the development of students.

[22] UNRWA reportedly coordinated with the Ministry of Education to make use of its satellite television channel and self-learning materials in order to make education accessible to all children in Gaza, including those not residing in UNRWA shelters.

G. Recovery and reconstruction efforts

38. The rebuilding of lives and livelihoods following intensive bombardment, mortar fire and ground operations across Gaza is a momentous task that will continue for some time to come. The Palestinian Government of National Consensus reportedly estimated the cost of relief, recovery and reconstruction for Gaza at $4 billion. The international community pledged up to $5.4 billion for Gaza reconstruction at the donor conference held in Cairo in October 2014, but many pledges have not been fulfilled. UNRWA had estimated the total funding required for the provision of rental subsidies to families with no alternative shelter, reconstruction of destroyed homes and repair for those with damage at $720 million; as at December 2014, however, only $100 million had been pledged, leaving a shortfall of $620 million. According to UNRWA, the impact of ceasing payments to affected families would be dramatic, forecasting that tens of thousands of refugee families would find themselves with inadequate shelter and no support during the harshest months of winter.[23]

39. Some 100,000 people remain displaced and in need of continuing assistance; 450,000 are disconnected from the water network owing to damage and/or low pressure, while approximately 22,000 housing units require rebuilding or substantial repair. Despite the Gaza reconstruction mechanism brokered by the United Nations and that came into effect in early November, the delivery of essential building materials has been painfully slow. Four months after the ceasefire and with the onset of winter, the United Nations Special Coordinator for the Middle East Peace Process conceded, during a visit to Gaza in December 2014, that the operating environment continued to face many challenges, including a fragile and informal ceasefire that had not yet solidified and a lack of empowerment of the Government of National Consensus in Gaza with no control over the crossings. Such difficult issues, coupled with insufficient financial assistance from donors, had only worsened the atmosphere in an already devastated Gaza. As the Special Coordinator stated during his briefing to the Security Council a few days later, "this temporary mechanism is not a substitute for the lifting of all closures on Gaza as laid out in Security Council resolution 1860 (2009)".[24]

40. After 51 days of bombardment, the conditions of life in Gaza have shifted ever closer to the dismal forecast made in 2012 by the United Nations country team, which questioned whether Gaza would be a liveable place by 2020.[25] The shortages in construction materials and related price hikes have contributed to an already high level of unemployment generally, but particularly in the construction sector, which used to absorb 10 per cent of the Gaza workforce, and also increased rates of poverty and food insecurity. In a report on assistance to the Palestinian people, the United Nations Conference on Trade and Development found that Israeli constraints in general and restrictions on the mobility of Palestinian workers in particular across the Occupied Palestinian Territory had had a disproportionately high impact on Palestinian women.[26] Information received by the Special Rapporteur also indicated that the widespread poverty and retreat of discouraged Palestinian men from the labour market is a consequence of the lack of employment opportunities. Human rights defenders in Gaza repeatedly stressed that the humanitarian

[23] UNRWA, "Urgent funding required to address unprecedented destruction in the Gaza Strip", 18 December 2014.

[24] Department of Political Affairs, Security Council briefing on the situation in the Middle East, Special Coordinator for the Middle East Peace Process, Robert Serry, 15 December 2014.

[25] United Nations country team in the Occupied Palestinian Territory, "Gaza in 2020: A liveable place?", August 2012.

[26] TD/B/61/3.

crisis and the denial of basic human rights in Gaza was an entirely man-made result of the prolonged occupation and blockade, arguing that people in Gaza have the skills, knowledge, capability and determination to achieve sustainable peace based on human rights and to pursue sustainable economic development without reliance on international aid if only the blockade were lifted and the occupation ended.

III. Situation of human rights in the West Bank

A. Excessive use of force by Israeli security forces

41. According to OHCHR, in 2014 alone there were at least 50 Palestinian fatalities in incidents involving Israeli security forces in the West Bank, including East Jerusalem, a figure almost double the 27 Palestinian fatalities reported in 2013 in similar circumstances.[27] Most worryingly, information available to the Special Rapporteur suggests that these incidents are not isolated, but part of an increasing pattern whereby Palestinian civilians (often children) who pose no serious threat to Israeli security forces are deliberately shot and injured with rubber-coated steel bullets, or increasingly killed with live ammunition by "trigger-happy" soldiers.[28]

42. The period of heightened tensions across the Occupied Palestinian Territory, from 12 June to 31 August 2014, also witnessed a striking increase in the lethal use by Israel of force in the West Bank, including East Jerusalem, leading to the death of 27 Palestinians, including five children, the youngest of which was only 11 years old. These reported killings have continued in recent months. On 16 October 2014, a 13-year-old child was shot with live ammunition allegedly by Israeli security forces and killed in the village of Beit Liqya in Ramallah governorate. The boy had reportedly been shot on his way back from the village's playground and was not participating in clashes involving stone-throwing by Palestinian youths taking place at around the same time, some 150 metres away from the site of the incident.[29]

43. The actions taken by the Israeli security forces appear to be at odds with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The plausibility of the use of firearms in self-defence or the defence of others against the imminent threat of death or serious injury is questionable in many of the cases involving Palestinians exercising their right to peaceful protest.

B. Right to peaceful protest

44. Concerns at the excessive use of force by Israeli security forces in the context of peaceful demonstrations received, ironically, global attention on Human Rights Day in 2014, when a Palestinian Minister, Ziad Abu Ein, died following confrontations with Israeli security forces during an olive tree planting ceremony celebrating Human Rights Day and protesting against an illegal Israeli settlement outpost nearby the occupied West Bank village of Turmus'aya. On the same day in Jalazone refugee camp in the West Bank, Israeli security forces reportedly shot a 14-year-old Palestinian boy in the head with live

[27] OHCHR, "Zeid says Israel must take action to curb rise in protest fatalities in Occupied Palestinian Territory", 12 December 2014.

[28] See Amnesty International, "Trigger-happy: Israel's use of excessive force in the West Bank", 2014.

[29] See Office for the Coordination of Humanitarian Affairs, Protection of Civilians Weekly Report, 14 – 20 October 2014.

ammunition, leaving him seriously wounded, during protests triggered by the death of Ziad Abu Ein.[30]

45. According to a Palestinian non-governmental organization, in an incident on 31 August 2014, a 16-year-old Palestinian youth was allegedly shot in the head with a rubber-coated bullet and killed by Israeli security forces in the Wadi al-Joz neighbourhood of East Jerusalem. The youth was reportedly going to the mosque when he was caught up in clashes between Palestinian youths and Israeli security forces.

46. Television audiences across the world witnessed closed-circuit television footage capturing the moments, on 15 May 2014 in the town if Beituniya in the West Bank, when two Palestinian teenagers, Nadim Nuwara and Muhammad Salama, were shot and killed. Neither of the teenagers posed any immediate threat to Israeli security forces, which were positioned more than 60 metres away. A member of the Israeli paramilitary border police was reportedly arrested on 12 November 2014, and an indictment for manslaughter of Nadim was filed at the Jerusalem district court on 23 November.[31] Whether the suspect will be charged and a sentence commensurate to the crime is handed down remains to be seen. No arrest has been made in connection with the killing of Muhammad Salama.

47. On 12 November 2014, the Government of Israel responded to a joint letter of allegation addressed in August by the Special Rapporteur and several thematic mandate holders regarding the case of the reported killing of civilians during peaceful demonstrations in the West Bank in July, including that of Hashem Khader Abu Maria, who worked as coordinator for Defence for Children International, and of two others. In its response, the Government pointed out that the civilians had been "killed during violent clashes between Palestinians and Israeli security forces ... in the course of which Israel Defense Forces soldiers were subject to severe acts of violence, including the throwing of stones, Molotov cocktails, and improvised explosives". The Government added that a criminal investigation had been immediately opened into the incidents, but that, "in light of the highest concerns given to the integrity of the investigation, and in accordance with the law, the Criminal Investigations Department cannot disclose information regarding on-going investigations'.[32]

C. Israeli security forces search operations in Palestinian refugee camps

48. Over the past three years, the number of Israeli search operations in Palestinian refugee camps and Palestinians refugees detained by Israeli security forces has increased considerably, from 293 operations in 2012 to 568 operations during the period from January to September 2014. This has resulted in more Palestinian refugees injured and killed, including children, in the context of these operations.

[30] OHCHR, "Zeid says Israel must take action" (see footnote 27).

[31] A report concluded that the border policeman identified was the person who killed Nuwwara. See DCI-Palestine and Forensic Architecture, "The killing of Nadeem Nawara and Mohammad Mahmoud Odeh Abu Daher in a Nakba Day protest outside of Beitunia on May 15th, 2014".

[32] See A/HRC/28/85.

Israel Security Forces search operations, fatalities, injuries and detention of Palestinians, including minors, across West Bank refugee camps*

	2012	*2013*	*2014***
Search operations	293	471	568
Detainees	351 (including 6 minors)	420 (including 59 minors)	473 (including 68 minors)
Fatalities	0	12 (including 3 minors)	11 (including 1 minor)
Injuries	38 (including 5 minors)	486 (including 95 minors)	650 (including 54 minors)

Source: United Nations

*Jenin, Tulkarm, Nur Shams, Camp No 1, Balata, Askar, Al Far'a, Shufat, Amari, Kalandia, Jalazone, Deir Ammar, Aqabt Jaber, Ein Sultan, Aida, Beit Jibrein, Dehiesha, Arroub and Fawwar refugee camps.

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49. The repeated incursions by Israeli security forces into Palestinian communities have not been without consequences. A needs assessment conducted by UNRWA on the mental health of Palestine refugee children throughout the West Bank in October and November 2014 found that 37 per cent of sampled Palestine refugee children from camps, and 51 per cent of sampled children from Bedouin communities, reported witnessing Israeli security forces breaking into their homes, while some 13 per cent of sampled refugee and Bedouin children reported witnessing the killing or injury of a relative or friend by explosive objects and materials left behind by the Israeli security forces. It was found that 22 per cent of sampled Palestine refugee children in camps and 44 per cent of sampled Bedouin children were at greater risk of having a psychiatric disorder. Since February 2014, UNRWA has been providing psychosocial counselling services to more than 15,000 children under the age of 18 years in schools, health clinics in refugee camps and other localities. Children reportedly comprise approximately 70 per cent of all counselling cases. The most widely reported symptoms included enuresis and encopresis complaints (24 per cent), behavioural problems (20 per cent) and anxiety complaints (13 per cent). Other issues affecting children identified by UNRWA school counsellors included discipline problems, aggression and poor academic achievement.

D. Punitive house demolitions

50. House demolitions ordered by Israel in response to a string of Palestinian attacks on Israelis in recent months are of particular concern to the Special Rapporteur.[33] Between 1 June and 30 November 2014, the Israeli authorities reportedly demolished or sealed five homes, displacing 34 Palestinians, including 16 children. According to the United Nations Resident Coordinator and Humanitarian Coordinator, as at 3 December 2014, another six families in the West Bank and East Jerusalem were at risk. The home of Abd al-Rahman al-Shaludi, the Palestinian who allegedly killed a 22-year-old woman and a three-month-old Israeli infant in a car attack in Jerusalem in October, was among those demolished.

51. The justification made by the Israeli authorities for home demolitions is that it serves as a deterrent to prevent future "terrorist" attacks.[34] The Special Rapporteur has not,

[33] OHCHR, "Palestinian homes must cease to be a target, UN human rights experts say", 25 November 2014.

[34] Human Rights Watch, "Israel: Stop Punitive Home Demolitions", 22 November 2014.

however, come across any supporting evidence for this to date. Indeed, in 2005, a military committee appointed by then chief of the Israel Defense Forces (and current Minister for Defence) Moshe Ya'alon recommended a moratorium on home demolitions after it had found little proof that they served as an effective deterrent to future terrorists.[35]

52. Aside from the questions of "effectiveness", from an ethical and legal standpoint, family members who have committed no crime should not be punished for the actions of a relative. In short, punitive home demolitions are an act of collective punishment that contravenes international law. It is therefore all the more disconcerting that the Supreme Court of Israel continues to sanction the practice, which deprives innocent Palestinians of the right to adequate housing.[36] All those accused of being responsible for acts of violence should be tried before a court of law and, if found guilty, sentenced for their crimes; the State cannot, however, go beyond what is sanctioned by international law.

53. On 27 November 2014, the Ministry of Foreign Affairs of Israel responded to a joint press release issued by this Special Rapporteur and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, in which they called upon Israel to cease targeting Palestinian homes. In its response, Israel sought to deflect attention from its resort to the illegal practice of home demolitions by making unfounded accusations that "the mandate holders have turned a blind eye to terrorism, incitement, celebrations of violence and encouragement of extremism carried out by Palestinians and their leaders". Any incitement to hatred and violence must of course be condemned in all its forms, but genuine deterrence needs to look at the root causes of violence. Punitive home demolitions only add to the frustration and despair felt by people living under the prolonged Israeli military occupation. It sows the seed of more hatred, particularly in children, that may fuel the cycle of more violence in the future.

IV. Arrest and detention of Palestinian children

54. Around 8,000 Palestinian children under the age of 18 have reportedly been detained and prosecuted by the Israeli military courts since 2000. According to information provided by a Palestinian non-governmental organization, as at October 2014, there were 201 Palestinian children held in Israeli prisons, 23 of whom were between the ages of 14 and 16. The ill-treatment of Palestinian children by Israeli security forces from the time of arrest to the end of detention in Israeli military facilities has been well documented across the United Nations, from the reports of the Secretary-General and the High Commissioner, to the United Nations Children's Fund (UNICEF), which in February 2013 reported that "the ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalised throughout the process, from the moment of arrest until the child's prosecution and eventual conviction and sentencing."[37]

55. The situation of Palestinian children has also received significant attention across the United Nations human rights mechanisms, including during the consideration of the reports submitted by Israel to the Committee on the Rights of the Child in June 2013,[38] in the context of the universal periodic review in October 2013,[39] and most recently by the Human

[35] Asher Schechter, "Immoral, ineffective: Destroying terrorists' homes is nothing but empty revenge", *Haaretz*, 20 November 2014.

[36] See www.hamoked.org/files/2014/1158616_eng.pdf.

[37] UNICEF, Children in Israeli Military Detention: Observations and Recommendations, February 2013.

[38] CRC/C/ISR/CO/2-4.

[39] A/HRC/WG.6/17/ISR/1.

Rights Committee in October 2014.[40] The key concerns related to cases of night-time arrest, handcuffing, blindfolding, strip-searching, physical and verbal abuse, and denial of access to a lawyer or to parents, and the fact that many children are forced to sign confession documents in Hebrew, which they do not understand.

56. It appears that Israel has taken note of some of the recommendations made by UNICEF in its report, including by introducing some procedural adjustments;[41] for example, in April 2013, Israel reduced the amount of time that children accused of what Israel classes as "security offences" spend in detention prior to their first court hearing (from eight days to four days, or even 24 hours, depending on the age of the child), although this time may be doubled in special circumstances. These time frames are nonetheless reportedly still twice as long as those prescribed in the laws applicable to children from Israeli settlements. It was also reported that, in April 2014, Israel introduced a pilot scheme of issuing summonses to children as an alternative to terrifying night-time arrests; many summonses are, however, reportedly delivered after midnight, putting into question the good faith application of the pilot scheme. Two years since the UNICEF report, the information received by the Special Rapporteur suggests that the findings made by UNICEF remain valid.

57. The Head of the Palestinian Commission for Detainees and ex-Detainees Affairs, Issa Qaraqe, informed the Special Rapporteur that affidavits from many children released from detention confirmed that beatings and torture were "commonplace" and resulted in chronic psychological problems for young children. This was collaborated by the findings of a non-governmental organization, which collected 105 sworn testimonies from children between November 2012 and July 2014. Of the 105 testimonies, 99 children had had their hands tied; 85 had been blindfolded; 72 had been shown or had signed documents in Hebrew, which they did not understand; 63 had experienced physical abuse; 49 had been arrested in the middle of the night (usually between midnight and 5 a.m.); 48 had been transferred on the floor of a vehicle; 47 had received threats; 41 had experienced verbal abuse; and 27 had been strip-searched. Only 13 had been informed of their right to silence; and just six had received a summons in lieu of night arrest. Parents had been present throughout interrogation in only six cases, and five children had been reportedly allowed to consult a lawyer prior to interrogation. Three children had been placed in solitary confinement at some stage of their detention.[42] Most of these acts of ill-treatment reportedly occurred during the first 24 hours following arrest.

58. According to information received from a Palestinian non-governmental organization, the vast majority of Palestinian children brought before a military court reportedly pleaded guilty under the pressure of interrogation, also because it was the fastest way to be freed from Israeli custody. Of the 287 cases involving child detainees in 2012 and 2013, the conviction rate was an extraordinarily high 99.5 per cent among the 181 children charged.

59. Moreover, according to information received by the Special Rapporteur, an estimated 60 per cent of Palestinian child detainees from the Occupied Palestinian Territory are held in prisons and detention facilities inside Israel, in violation of article 76 of the Fourth Geneva Convention. For children, this mean that they receive fewer families visits because of the time it takes to obtain a permit or due to the fact that permits are denied for

[40] CCPR/C/ISR/CO/4.

[41] See UNICEF, Children in Israeli Military Detention, Observations and Recommendations, Bulletin No. 1, October 2013.

[42] Military Court Watch, "Children in Military Custody: 2 years on", 1 September 2014.

reportedly unspecified "security" reasons. Palestinian children are reportedly not allowed to use a telephone while in detention.

60. A representative of a non-governmental organization described the approach taken by Israel to the issue as having "moved on from its position of denial of the problem to dealing with it as a press relations issue". Evidence suggests that Israel has not taken sufficient remedial action to make a real difference on the ground to improve the situation of Palestinian children in detention. Many children come out of Israeli detention suffering from post-traumatic stress disorder or other illnesses associated with experiencing deeply traumatic events.

61. According to one testimony received from a Palestinian non-governmental organization by the Special Rapporteur, on 6 January 2014, a 13-year-old Palestinian boy from the village of Hizma in the Jerusalem Governorate was playing football with friends in a field when clashes reportedly erupted between stone-throwing youths and Israeli soldiers stationed in a hilly area opposite the playing field. As he and his friends attempted to run away, they were reportedly stopped, beaten severely and subjected to an electric stun gun by plain-clothed Israeli police officers before being taken away in a police vehicle to Ofer prison near Ramallah. For one week, the boy was subjected to daily interrogation sessions, which allegedly included further beatings, verbal abuse and the denial of the use of the bathroom. He was issued with a two-year suspended sentence and a fine of 7,500 shekels. Since his arrest, his academic performance has deteriorated, and he no longer leaves the house alone.

62. In another account received from a Palestinian non-governmental organization, a 14 year-old Palestinian youth was arrested on 11 March 2014 for the fourth time in two years when clashes erupted between Palestinian youths and Israeli settlers. The youth was transported to Maskoubieh detention facility, where he was repeatedly beaten and subjected to verbal abuse. The court reportedly sentenced the youth to house arrest for five days and ordered him to stay away from the Al Aqsa Mosque area for 30 days, in addition giving him a fine of 3,000 shekels. The youth today suffers from post-traumatic stress disorder, and his academic achievements are reportedly deteriorating.

63. The staggering number of Palestinian children subjected to similar experiences of terrifying arrest and detention in Israeli custody and the trauma of the ill-treatment is of serious concern. Impunity for these violations is likely to perpetuate the ill-treatment of children in the future. It was noted that most Palestinian families reportedly do not file complaints of mistreatment with the Israeli authorities for fear of retaliation or because they have lost faith in the judicial system. Of the 23 complaints filed by Palestinian families in 2012 and 2013 with the assistance of Defence for Children – Palestine, the status of most of the complaints were unknown as at September 2014.

V. Forcible transfer of Palestinian Bedouins

64. The situation of thousands of Palestinian Bedouin and herder communities resident in the central West Bank, including the East Jerusalem periphery, and the risk of their forcible transfer to three government-designated township sites at Al-Jabal, Nuweima and Fasayil in the Jerusalem and Jericho Governorates of the West Bank, is cause for deep concern. If the plans of the Israeli Civil Administration, referred to as the "Bedouin Regulation", are approved, between 5,000 and 11,000 individuals from up to 46 rural communities could be evicted from their current place of residence and relocated to these sites. The implementation of the plans would entail the demolition of Bedouin homes and

schools, in clear violation of international law, and approximately two thirds of those affected would be children.[43]

65. Although the Israeli authorities claim that the Bedouin communities wish for an improvement in their living conditions and do not object to relocation, information received from representatives of Bedouin communities and non-governmental organizations suggests otherwise. Notwithstanding, the Israeli Civil Administration Higher Planning Council approved the deposit of plans for the Nuweima and Fasayil transfer sites in June 2014, and opened them for public objection for a period of 60 days, beginning in August and September respectively.[44] All affected Bedouin communities reportedly also faced pending demolition orders.

66. Information received by the Special Rapporteur suggests that there are a number of problems with the plan, including the limited availability of grazing land in the designated townships, the likelihood that traditional livelihoods and the culture of these communities will be undermined, and the fact that one of the proposed sites is located next to a refuse dump, raising serious health concerns. Most importantly, the communities themselves are not willing to relocate. Some are also located in an area that has been allocated for the expansion of Israeli settlements, including in the area known as "E-1", which allegedly is intended to create a contiguous built-up settlement area between the Ma'ale Adummim settlement and Jerusalem.[45] If that is realized, East Jerusalem would be further disconnected from the rest of the West Bank and the territorial contiguity of the Occupied Palestinian Territory further undermined.

67. Israel has reportedly been reinforcing its plans to transfer the Palestinian Bedouins by creating a "coercive environment" through a number of policies and practices, including by restricting access to grazing land and markets, the denial of access to basic services and infrastructure, the rejection of applications for building permits, and the demolition and threat of demolition of homes, schools and livelihood structures, including tents and portable latrines – all of which have contributed to forcing Bedouin communities out of their present areas. According to an international non-governmental organization, between January 2008 and July 2014, more than 5,000 Palestinians were displaced as a result of house demolitions and evictions in the West Bank, including East Jerusalem. Moreover, from 2009 to 2012, Palestinians reportedly submitted 1,640 building permit applications, of which only 37 (or 2.3 per cent) were approved.

68. Part of this coercive environment has involved Israeli interference in the delivery of international donor assistance. UNRWA reported that, in one such case, on 27 February 2014, a donation from a European Union diplomatic mission to the school of Khan al-Ahmar, comprising a swing set, a free-standing slide and two half-barrel climbing frames, was reportedly confiscated and removed by the Israeli Civil Administration. Israel reportedly stated that the items were confiscated because the metal legs of the swing set would need to be sunk into concrete, which constituted "construction" requiring a building permit.

69. An international non-governmental organization involved in the provision of humanitarian aid to vulnerable Palestinian communities informed the Special Rapporteur

[43] See also UNRWA, "UNRWA urges donor community to take firm stand against mass forcible transfer of Palestinian Bedouins", 21 September 2014.

[44] See Amira Hass, "West Bank Bedouin fighting Israel's plan for forcible relocation", *Haaretz*, 3 December 2014.

[45] During an Israeli Parliamentary discussion on 27 April 2014, the head of the Coordination of Government Affairs in the Territories reportedly discussed the plans to clear out the Bedouins from the E-1 settlement area.

that, since 2009, more than 1 million Euros worth of its humanitarian aid objects and projects had been subjected to Israeli stop-work, demolition or seizure orders, reportedly affecting 230 shelters, three schools and more than 135 water and sanitation structures.

70. The demolitions and evictions have a significant impact on the lives of Palestinian families and their children, as frequent displacement disrupts livelihoods and reduces the standard of living, with limited opportunities for access to basic services. The effect of displacement on children has been particularly disruptive owing to frequent changes of school and unsettling changes to their daily lives, resulting in symptoms including post-traumatic stress disorder, depression, anxiety and poor academic achievement.

71. International law prohibits the mass forcible transfer or forced eviction in an occupied territory except under exceptional circumstances. Israel, as the occupying Power, has the obligation to protect the civilian population in the occupied territory, and to administer it for the benefit of that population. It is certainly not compatible with the destruction and confiscation of private property, including homes, livelihood structures and water and sanitation facilities, which deprive the Palestinian population of their basic social and economic rights.

72. On 14 October 2014, the Special Rapporteur, together with the Special Rapporteur on the right to adequate housing, the Special Rapporteur in the field of cultural rights, the Special Rapporteur on the right to food and the Special Rapporteur on minority issues addressed a joint urgent appeal to the Government of Israel regarding the alleged plans to forcibly transfer the Bedouin communities. The mandate holders reminded Israel of its human rights obligations and requested an explanation of the plans and the steps taken by the Government to ensure that the areas affected by the relocation plans would not be slated for settlement expansion or construction of the wall. They also requested information of the mechanisms used to ensure adequate, informed and genuine participation by the Bedouin communities and their representatives in the discussions and the decision on the three "townships" planned by the Israeli Civil Administration. As at 15 December 2014, no response had been received.

VI. Concluding remarks

73. The Special Rapporteur's observations and interactions with victims and witnesses living in the Occupied Palestinian Territory in the several months since assuming his mandate suggest that the protection that international humanitarian law and international human rights law should be providing for civilians, including children, across the Occupied Palestinian Territory is distressingly absent. It is especially deplorable that Palestinian children are suffering the brunt of occupation policies and practices of Israel, whether as a result of the blockade and hostilities in Gaza, the excessive use of force by Israeli security forces in the context of legitimate protests and peaceful demonstrations, as well as search operations in the refugee camps, and abuse and ill-treatment in Israeli prisons. Voices from across the Occupied Palestinian Territory called in unison for accountability, an end to the blockade and an end to the occupation. If another round of deadly violence is to be avoided, the underlying problems perpetuating the conflict and the almost daily violation of the human rights of the Palestinian people must be addressed and those responsible brought to justice.

VII. Recommendations

74. **With regard to the situation in Gaza, the Special Rapporteur recommends that the Government of Israel:**

(a) Implement in good faith the Gaza reconstruction mechanism brokered by the United Nations and allow delivery of construction materials, including cement;

(b) In accordance with Security Council resolution 1860 (2009), urgently lift the blockade of Gaza, which constitutes a form of collective punishment that has a disproportionate impact on the lives of innocent civilians and children;

(c) Conduct prompt, thorough, effective, independent, impartial and transparent investigations into all alleged incidents of killing of civilians during the hostilities, and make public the findings and any steps taken regarding accountability.

75. **With regard to the situation of children in Israeli military detention, the Special Rapporteur recommends that the Government of Israel:**

(a) Ensure that arrests of children only take place during daylight hours, except in rare and exceptional circumstances;

(b) Provide children and their legal guardians with a written statement in Arabic informing them of their legal rights in custody;

(c) Allow all children to consult with a lawyer of their choice prior to questioning;

(d) Ensure that every interrogation is audio-visually recorded and a copy of the tape provided to the defence counsel prior to the first hearing;

(e) Cease immediately the ill-treatment and abuse of children in detention, including the practice of putting children in solitary confinement;

(f) Exclude, in all cases, evidence obtained by the military courts as a result of torture or ill-treatment.

76. **With regard to the excessive use of force by Israeli security forces, the Special Rapporteur recommends that the Government of Israel:**

(a) Ensure that Israeli security forces comply with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

(b) Conduct thorough, effective, independent and impartial investigations into all cases involving the lethal use of force, and make those findings public without delay.

77. **The Special Rapporteur furthermore recommends that the Government of Israel cease immediately punitive home demolitions, and provide adequate compensation to innocent family members whose homes have been unlawfully demolished.**

78. **With regard to the plans that would allegedly result in the forcible eviction and transfer of Palestinian Bedouin and herder communities in Area C of the West Bank, the Special Rapporteur recommends that the Government of Israel:**

(a) Abandon, and desist from implementing, plans entailing the forcible transfer of Palestinian Bedouin and herder communities in the West Bank, including in the East Jerusalem periphery;

(b) Provide adequate compensation and restitution for individuals and communities who have been forcibly evicted and had their property destroyed.